



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/537,633

06/03/2005

Christopher Temple

SC12418EM

4941

34814 7590 07/29/2010
LARSON NEWMAN & ABEL, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN, TX 78730

EXAMINER

CHRISS, ANDREW W

ART UNIT

PAPER NUMBER

2472

MAIL DATE

DELIVERY MODE

07/29/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/537,633	Applicant(s) TEMPLE ET AL.	
	Examiner ANDREW CHRISS	Art Unit 2472	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 July 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-20.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☒ Other: Objection to Claims 1-3 is withdrawn in light of Applicant's amendment.

/William Trost/
 Supervisory Patent Examiner, Art Unit 2472

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed July 14, 2010 regarding rejection of Claims 1-20 under 35 U.S.C. 112, first paragraph, for failing to comply with the written description requirement have been fully considered but they are not persuasive. Applicant cites page 5 of the specification as providing support for claim limitation "when in use." Examiner respectfully disagrees. Examiner notes that Applicant's specification does not describe how either the initial startup phase of the node or the synchronized operation phase of the node would expressly, implicitly, or inherently support the claim limitation "when in use." Per MPEP 2163: "While there is no in haec verba requirement, newly added claim limitations must be supported in the specification through express, implicit, or inherent disclosure. An amendment to correct an obvious error does not constitute new matter where one skilled in the art would not only recognize the existence of the error in the specification, but also recognize the appropriate correction. In re Oda, 443 F.2d 1200, 170 USPQ 268 (CCPA 1971)." As the claim limitation does not appear to be expressly, implicitly, or inherently supported by the specification as originally filed, Examiner submits that one of ordinary skill in the art would not recognize the existence of an error in the specification regarding the operation of the claimed mode of operation (i.e., when in use). Applicant further states that "one skilled in the art would understand that the consecutively elapsing time units recited in Claim 1 are fully supported by the exemplary consecutive time intervals or slots described in the specification." Examiner respectfully disagrees. Applicant's specification describes time slots and sub-time slots, but the terms "time units" and "sub-time units" do not appear in Applicant's specification as originally filed. Applicant has not shown that "timeslot" and "time unit" convey the same definition based on the express, implicit, or inherent disclosure, as originally filed. As such, the phrase "time unit" comprises new matter. Rejection of Claims 1-20 under 35 U.S.C. 112, first paragraph, for failing to comply with the written description requirement is maintained.

Applicant's arguments filed July 14, 2010 regarding rejection of Claims 1-10 and 12-19 under 35 U.S.C. 102(b) have been fully considered but they are not persuasive. Applicant states that "Belschner does not disclose consecutively elapsing time units associated with the dynamic communication slots, each consecutive time unit of the base comprising at least two elapsing sub-time units or a transmission action point located at a boundary between the sub-time units in any manner." Examiner respectfully disagrees. Examiner notes that the "time units" and "sub-time units" are not further defined in the claim language so as to require the units or sub-time units to have a certain duration or distinguishing characteristic. As such, Examiner has given the claim language "time units" and "sub-time units" its broadest reasonable interpretation. Belschner discloses a communication cycle comprising consecutive time units (i.e., static segment and dynamic segment) each comprising sub-time units (e.g., slot numbers 1-6) (see Figure 4). Examiner further notes that the claim language requires the transmission action point to be located at a boundary between two of the at least two sub-time units and therefore submits that a transmission action point is not required between each sub-time unit as alleged by Applicant. Further, the claimed transmission action point is not further defined in the claim language. As such, Examiner has given the claim language its broadest reasonable interpretation without importing limitations from the specification. Belschner discloses, at Figure 7 and Section 3.3.1, page 18, that each FlexRay frame comprises a CRC code at the end of the frame that separates each frame from one another. Therefore, a CRC code is appended to the header and data and transmitted prior to the start of the next frame. Further, as the FlexRay frames are transmitted according to the time slots (Figure 4), the CRC code is therefore associated with the timebase, as the CRC code is attached to the frame transmitted within the time slots. Rejection of Claims 1-10 and 12-19 under 35 U.S.C. 102(b) is therefore maintained.

Applicant's arguments filed July 14, 2010 regarding rejection of Claims 11 and 20 under 35 U.S.C. 103(a) have been fully considered but they are not persuasive. Applicant states that "neither Gee nor Belschner discloses or renders obvious the above-cited features of claim 20, and the similar features of Claim 11." Examiner respectfully disagrees. As stated above, the "transmission action point" is not further defined in the claim language. Further, the claim language of Claims 11 and 20 recite "the transmission is by transmission of a busy signal," which further limits parent Claims 10 and 19, respectively, which recite "extending a transmission to a transmission action point." Therefore, the transmission in Claims 11 and 20 can be tied to either the transmission being extended or the transmission action point. As such, Examiner submits that the transmission of the busy signal in a TDMA system, as disclosed in Gee, to indicate that a transmission is ongoing (column 13, lines 16-40). Rejection of Claims 11 and 20 under 35 U.S.C. 103(a) is therefore maintained.